

REMARKS

Initially, Applicant's attorney wishes to thank the Examiner for the careful consideration given this case, as well as the courteous interview extended to the undersigned on November 3, 2006 and continued on November 13, 2006. As discussed during the interview, the Examiner would look favorably upon Applicant focusing on the angled needles in Applicant's claims. As set forth in the Final Office Action, the Examiner rejected claims 1-3, 5, and 7-16. Applicant has amended independent claims 1 and 16 and claims depending therefrom in order to overcome the Examiner's rejections as described below. Accordingly, Applicant respectfully submits that such claims are in condition for final allowance and notice to such effect is respectfully requested.

I. Rejection Under 35 U.S.C. § 102(b): Gordon

The Examiner has rejected claims 1-3, 5, 7-9 and 14-16 under 35 U.S.C. § 102(b) as unpatentable over Gordon (U.S. 5,741,277). As amended Applicant's claims recite a device comprising two or more angled needle holder arms connected to a connecting rod, with the connecting rod operative to pivot the angled needle holder arms between operative positions. The pivoting of the angled needle holder arms along with the angled needles allow the needles to be directed outwardly relative to the puncture site and subsequently to be biased inwardly in order to catch the needle. After the needle holder arms are in the second operative position, the needles can be engaged by the needle trap mechanism. As described in the Specification, the device is able to stitch a suture into position a sufficient distance about the port to create a more secure closure (see *e.g.* paragraphs 35 and 36).

Gordon fails to teach either angled needle holder arms or angled needles, all elements of the claimed invention; and the device of Gordon would fail to operate properly if it

were modified to include angled needles. Applicant respectfully submits that the claims are patentable over Gordon and request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

II. *Rejection Under 35 U.S.C. § 103: Gordon in view of Bradley*

The Examiner has rejected claims 1, 2 and 10-12 under 35 U.S.C. § 103(a), as unpatentable over Klein (U.S. 5,860,991) in view of Bradley et al. (U.S. 5,374,275).

As discussed during the interview and as reflected in the claims, neither Klein nor Bradley describe the use of angled needles or angled needle holder arms; and neither could be modified to function with angled needles without destroying the intended purpose of these teachings. Accordingly, it is respectfully submitted that this rejection be withdrawn and the claims passed to issue.

III. *Rejection Under 35 U.S.C. § 103: Gordon as a matter of design choice*

The Examiner has rejected claim 13 under 35 U.S.C. § 103 as unpatentable over Gordon (U.S. 5,741,277) as a matter of design choice. As described in the specification, the tapered mount enables tissue to be gathered radially about itself, which facilitates the formation of a closure. Furthermore, underlying claim 1 has been modified to incorporate angled needles and angled needle holder arms, both of which would render Gordon inoperative. Accordingly, the rejection should be withdrawn and the claims passed to issue.

CONCLUSION

In view of the amendments and remarks presented hereinabove, Applicant believes that claims 1-3, 5, and 7-16 are in condition for allowance and respectfully request that they be passed to issue. In the event that any fees are required with this submission, the Commissioner is hereby authorized to charge or credit such fees to Deposit Account No. 50-0436.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, she is invited to contact the undersigned at his convenience.

Respectfully Submitted,

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